

1 UNITED STATE DISTRICT COURT
2 DISTRICT OF ALASKA

3 UNITED STATES OF AMERICA, . Case 3:07-cr-00057-JWS
4 Plaintiff, . Anchorage, Alaska
5 vs. . May 7, 2007
6 BILL J. ALLEN, . 9:11 o'clock a.m.
7 Defendant. .
8 ARRAIGNMENT/ENTRY OF PLEA ON
9 FELONY INFORMATION (SEALED
10 ARRAIGNMENT/ENTRY OF PLEA ON
11 FELONY INFORMATION)

12 TRANSCRIPT OF PROCEEDINGS

13 BEFORE THE HONORABLE JOHN W. SEDWICK
14 UNITED STATES DISTRICT JUDGE

15 APPEARANCES:

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ANCHORAGE, ALASKA - MONDAY, MAY 7, 2007

(Defendant present)

(Log 10:04:34)

THE CLERK: All rise. His Honor the Court, the United States District Court for the District of Alaska is now in session with the Honorable John W. Sedwick presiding. Please be seated.

THE COURT: Good morning.

COUNSEL: Good morning, Your Honor.

THE COURT: We're here this morning for proceedings in an Anchorage criminal case, Number 3-07-cr-057. The court has been alerted to the fact that representatives of the news media would like to be heard in connection with what we have to do here this morning. The record in this case at this point in time is still sealed. I see Mr. McKay is here. Is there anyone else here who's representing the interests of the public in gaining access to this?

MR. MCKAY: Your Honor, to my knowledge there's only a rumor of notice of this hearing so nobody else knows about it that I know of.

THE COURT: All right.

MR. MCKAY: So I --

THE COURT: Well, we definitely need to deal with the issue which has to be resolved before we can really go any further. Now, as -- I guess at this point I need to hear from

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1 the government with respect to why -- well, let me back up once
2 and give everybody a little bit of assurance. Mr. McKay, if you
3 wouldn't mind, would you just come forward and --

4 MR. McKAY: Yes, sir.

5 THE COURT: Somewhere. You can stand at the lectern.
6 In the past, Mr. McKay, we've generally proceeded with the
7 understanding that in arguing your client's case you will be
8 allowed access to information that is not yet public, but you've
9 in past -- in past -- on past occasions you have represented to
10 the court as the -- a member of the bar of this court that you
11 will not disclose that information unless and until the court
12 authorizes you to do so. Are you willing to proceed on that
13 basis this morning?

14 MR. McKAY: I think so, Your Honor. I guess my
15 hesitation is that to my knowledge -- the short answer is yes,
16 Your Honor. But it's obviously without waiving any objection as
17 to whether any of this should be public. And my understanding
18 is that the -- because of the sequence of events this ended up
19 being scheduled as a sealed hearing because it was based on
20 sealed pleadings or sealed documents. But at this point there
21 may be no objection from either side to having any further
22 proceedings from this moment unsealed.

23 THE COURT: Well, I see some people nodding their
24 heads up and down. Maybe I should simply inquire, does the
25 government wish to continue with this matter as a sealed

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1 proceeding?

2 MR. BOTTINI: Your Honor, it is not our -- our
3 interest to keep it sealed at this time. Our reason for sealing
4 it, as you saw in the motion to seal, had to do with events that
5 are now taken care of, so --

6 THE COURT: All right.

7 MR. BOTTINI: -- it is our application to unseal this.

8 THE COURT: And will the same be true with respect to
9 Mr. Smith then?

10 MR. BOTTINI: Yes, sir.

11 THE COURT: All right. Now, Mr. Bundy, I gather you
12 have no objection?

13 MR. BUNDY: Well, it was the government's motion to --

14 THE COURT: I realize that, but your client has an
15 interest in this as well.

16 MR. BUNDY: Right, and we would prefer that it remain
17 sealed, but we're prepared not to object further, as long as all
18 the documents will be unsealed.

19 THE COURT: I beg your pardon?

20 MR. BUNDY: As long as all the documents that were
21 previously sealed will be unsealed.

22 THE COURT: All right, well, there are --

23 MR. BUNDY: There's an agreement that was -- that the
24 government had indicated they wanted to continue to be sealed
25 and I understand that they're not asking for that any further.

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1 THE COURT: All right, so from your client's
2 perspective if the court unseals the entire record then you have
3 no further objection?

4 MR. BUNDY: No.

5 THE COURT: Is the government seeking to have anything
6 that's been filed yet kept under seal?

7 MR. BOTTINI: No, Your Honor.

8 THE COURT: Very well, then, it is the court's
9 decision that this matter will proceed on an open record and
10 that the order previously entered sealing this proceeding is
11 vacated. It's the court's order that this matter will proceed
12 as a public case, as it should in most instances, and it should
13 in this case. So we'll open the courtroom and, Mr. McKay, if
14 you'd like to invite your clients in --

15 MR. MCKAY: I'll do that, Your Honor.

16 THE COURT: -- you can tell them you won a big
17 nonopposed victory.

18 MR. MCKAY: All right. And I apologize for
19 oversimplifying this, but if we could, perhaps, administratively
20 or more formally, if you wish, sometime after and unrelated to
21 this particular proceeding take up this issue, because I think
22 it's inappropriate that a matter of this moment have no --
23 essentially no public notice and it's happened -- this isn't the
24 first time even in the last year or so. So I would appreciate
25 that opportunity.

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1 THE COURT: Well, I think the best thing to do, Mr.
2 McKay, might be to meet with Mr. Cohen and then I'd be happy to
3 meet with the two of you.

4 MR. MCKAY: Sounds good, Your Honor.

5 THE COURT: And perhaps we should get Mr. Curtner
6 involved as well --

7 MR. MCKAY: All right.

8 THE COURT: -- so that we have some input from both
9 sides.

10 MR. MCKAY: Good.

11 THE COURT: But I'd be perfectly happy to do that.

12 MR. MCKAY: Thank you, Your Honor.

13 THE COURT: All right, we'll open the courtroom doors
14 and invite all who are assembled in the corridor in to --

15 MR. BUNDY: Your Honor, just one thing.

16 THE COURT: Yes, sir.

17 MR. BUNDY: Mr. Allen is very hard of hearing and he
18 can't really hear too well what's going on right now, so if it's
19 not too much of an inconvenience for the court if the --

20 THE COURT: We have a hearing assistance device.

21 THE DEFENDANT: I've got my hearing aids, it won't --

22 THE COURT: Can you hear me now, Mr. Allen?

23 THE DEFENDANT: Yeah.

24 THE COURT: Okay, I'll try and speak into the
25 microphone and I'm going to ask that the lawyers either remain

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1 seated and speak distinctly into the microphone or, if you
2 prefer, you can stand at the podium, but be sure you're speaking
3 into the microphone so that the defendant can hear clearly
4 what's going on.

5 Good morning and welcome to those of you who have just come
6 in. In your absence the court has ruled that this matter will
7 proceed on an open record. That means not only is this hearing
8 open to the public but all of the documents previously filed
9 under seal will be unsealed today. I don't think that can be
10 done instantaneously but those matters will be unsealed
11 promptly.

12 We are here this morning for proceedings in an Anchorage
13 criminal case, it's Case Number 3-07-cr-57, United States versus
14 Bill J. Allen. The purpose of the proceeding this morning is to
15 arraign the defendant on an information, consider whether
16 defendant wishes to waive his right to proceed by indictment,
17 and hear what pleas defendant may choose to enter this morning.
18 Mr. Allen, as you probably know, you do have a right to be
19 represented by a lawyer, and one paid by the government if you
20 cannot afford to hire a lawyer. It's my understanding that you
21 are able to pay for a lawyer and that you have retained Mr.
22 Bundy. Is that correct?

23 THE DEFENDANT: That's right.

24 THE COURT: The information filed in this case by the
25 United States at Docket 1 charges you with three crimes. The

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1 first is conspiracy in violation of 18 United States Code
2 Section 371, which is the crime charged in Count 1. The charge
3 of conspiracy is one which has multiple unlawful objectives
4 which are spelled out in detail in Count 1 of the information.
5 The second crime charged is bribery concerning programs
6 receiving federal funds in violation of 18 United States Code
7 Section 666(a)(2) and 18 United States Code Section 2. That is
8 the crime charged in Count 2. Once again, the details are
9 spelled out in the information. The third crime is conspiracy
10 to impede or impair the Internal Revenue Service, which is a
11 violation of 18 United States Code Section 371. That is also
12 charged in the information and set out at Count 3. The details
13 of this crime are also explained in the information.

14 At this time I will read the information to the defendant
15 unless he wishes to waive the reading of the information. Mr.
16 Bundy?

17 MR. BUNDY: We'll waive reading, Your Honor.

18 THE COURT: Very well. The -- Mr. Allen, you are not
19 required to make any statements regarding these charges and if
20 you've already made statements you need not make any further
21 statement. Should you start to make a statement you can stop at
22 any time. In a moment you'll be placed under oath and I will
23 ask you some questions. If you decide to answer a question, any
24 statement you do make may be used against you. Do you
25 understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: The charges against you are all felonies.
3 The conspiracy charge in Count 1 is subject to punishment of
4 incarceration not to exceed five years, plus a fine of up to
5 \$250,000, a special assessment of \$100, and supervised release
6 following release from custody, which could be for a period as
7 long as three years. The bribery charge in Count 2 carries a
8 maximum penalty of 10 years in prison, a fine of up to \$250,000,
9 a \$100 special assessment, and supervised release for up to
10 three years. The last charge, the conspiracy charge in Count 3,
11 may be punished by imprisonment for up to five years, plus a
12 fine of \$250,000, a special assessment of \$100, and supervised
13 release which may extend up to three years. Supervised release
14 would involve substantial conditions and restrictions on your
15 liberty. If you were to violate the terms of supervised release
16 that could result in further incarceration.

17 You have a right to insist that if you are to be charged
18 with any of these serious crimes the charges must be made in an
19 indictment returned by a grand jury. The charges filed in this
20 case are set out in an information which was prepared by the
21 United States's lawyers. The information is not an indictment.
22 You may, however, waive your right to proceed by indictment and
23 elect to allow this matter to go forward on the basis of the
24 information. Before you decide if you wish to do so, I would
25 like to advise you of certain things.

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1 If you do not waive the right to proceed by indictment, the
2 government may attempt to obtain an indictment from the grand
3 jury. The grand jury is composed of at least 16 and not more
4 than 23 persons, at least 12 of them must find that there is
5 probable cause to believe a crime was committed and that you
6 committed it before the grand jury can return an indictment
7 against you. A grand jury might or might not indict you. If
8 you waive your right to proceed by indictment this action will
9 proceed against you on the basis of the existing information.

10 All right, at this time I'd like the clerk to give Mr.
11 Allen an oath.

12 BILL ALLEN, DEFENDANT, SWORN

13 VOIR DIRE EXAMINATION

14 THE CLERK: Thank you, please be seated. Please speak
15 into that microphone at all times. Would you please state your
16 full name, spelling your last name?

17 A Yeah, Bill J. Allen. Bill James Allen.

18 THE CLERK: The spelling of your last name, sir?

19 A A-L-L-L-E-N.

20 THE CLERK: Thank you.

21 BY THE COURT:

22 Q Mr. Allen, you've taken an oath pursuant to which you've
23 promised to speak truthfully. That means if you speak falsely
24 regarding any material matter you could be prosecuted for
25 perjury. Do you understand that?

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1 A Yes.

2 Q Mr. Allen, have any threats been made to persuade you to
3 waive your right to proceed by indictment?

4 A No.

5 Q Have any promises other than the promise -- promises set
6 out in your plea agreement been made to persuade you to give up
7 your right to proceed by indictment?

8 A No.

9 Q Have you discussed the issue of waiving your right to
10 proceed by indictment with Mr. Bundy?

11 A Yes.

12 Q Do you wish to waive your right to proceed by indictment?

13 A I'm sorry, one more time.

14 Q Do you wish to waive your right to an indictment? Do you
15 want to proceed on the basis of the information?

16 A Yes.

17 THE COURT: Very well, we need to have a waiver of
18 indictment form completed.

19 MR. BOTTINI: Your Honor, actually we have prepared a
20 separate filing, the waiver of indictment filing for Mr. Allen
21 to sign.

22 THE COURT: All right, very -- very well.

23 MR. BUNDY: Mr. Allen will sign that, Your Honor.

24 THE COURT: All right, thank you, Mr. Bundy, Mr.
25 Bottini. It's a nice touch, Joe, you ought to have that done in

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1 all the cases.

2 MR. BUNDY: Your Honor, if I might approach the clerk
3 with the --

4 THE COURT: Yes, sir. All right, I have before me a
5 waiver of indictment. Give me a moment to review it. All
6 right, Mr. Allen and his lawyer have both signed this. I think
7 there should've been a blank for my signature, so I'll just sign
8 it here at the bottom. Very well, we'll have the waiver of
9 indictment filed in the records of this case and we will now
10 proceed with the remainder of the tasks that we need to
11 accomplish this morning.

12 Q Do you wish to consider entry of pleas to the charges at
13 this time, Mr. Allen?

14 A Yes.

15 Q All right, I'm going to ask you some questions of the sort
16 that I routinely ask all persons who appear before this court
17 who are contemplating a plea of guilty. These questions are
18 intended to make sure that you're aware of the consequences of
19 pleading guilty, if that is what you choose to do, and to be
20 sure that you're competent this morning to make an important
21 decision. Let me begin by asking you how old you are?

22 A 19 -- I'm 70.

23 Q How far did you go in school?

24 A The 10th grade.

25 Q And what kinds of employment or work activities have you

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1 engaged in in the last five years or thereabouts?

2 A I was the chairman of Veco.

3 Q Are you -- all right, and for the record could you just
4 briefly tell us what Veco is?

5 A They're -- they're an engineering and construction company.

6 Q All right. And in fact it's a company so large it has
7 millions of dollars in revenue each year, is that correct?

8 A I'm so sorry.

9 Q The company is large enough that its annual revenues are in
10 -- measured in the millions?

11 A Yeah, it's more in the billion.

12 Q Yes. Let me ask you this, Mr. Allen. As you sit here this
13 morning are you suffering from any illness?

14 A No.

15 Q Are you suffering from any injury?

16 A No.

17 Q Have you ever been treated for addiction to alcohol or any
18 other drug?

19 A No.

20 Q As you sit here this morning are you under the influence of
21 alcohol or any drug, including prescription drugs?

22 A No.

23 Q Have you ever been treated for any mental illness?

24 A No.

25 Q As you know, the government's charges against you are set

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1 out in a document called an information. Did you read it?

2 A Yes.

3 Q Did you discuss it with Mr. Bundy?

4 A Yes.

5 Q For you to be found guilty of any crime the government must
6 prove to a jury each of the essential elements of the crime it
7 charges beyond a reasonable doubt. With respect to the
8 conspiracy charged in Count 1, the elements which the government
9 would have to prove are, first, there was an agreement between
10 two or more persons to commit one or more of the following
11 crimes: Extortion under color of official right, which is a
12 violation of 18 United States Code Section 1951(a); federal
13 programs bribery, which is a violation of 18 United States Code
14 Section 666(a)(1)(B) and 666(a)(2); and, finally, honest
15 services mail and wire fraud in violation of 18 United States
16 Code Sections 1341, 1343 and 1346. I will refer to that
17 agreement as a conspiracy.

18 The second element the government must prove is you became
19 a member of the conspiracy knowing of at least one of its
20 objectives and with the intent to help accomplish it. The third
21 element the government must prove is that one of the members of
22 the conspiracy performed at least one overt act for the purpose
23 of carrying out the conspiracy. Do you have any questions about
24 what the government would have to prove to establish your guilt
25 on Count 1?

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1 A Yes.

2 Q All right, what are your questions?

3 A No, I'm sorry. I'm -- really, I can't hear you here.

4 Q All right, how far -- do I need to repeat the elements?

5 A No. I'm sorry, I should've said no.

6 Q All right, now, I'll give you any time you need to confer
7 with Mr. Bundy. I just want to be sure, do you have any
8 questions about what the government has to prove to establish
9 your guilt on Count 1?

10 A No.

11 Q Now, with respect to the bribery charge in Count 2 the
12 elements which the government must prove are, first, you
13 corruptly gave, offered and agreed to give things of value to
14 elected public officials. Second, the elected officials were
15 agents of the State of Alaska. Third, you acted in connection
16 with a business transaction or series of transactions of the
17 State of Alaska which involved something whose value was \$5,000
18 or more, and, fourth and finally, you acted during a year when
19 the State of Alaska received benefits in excess of \$10,000
20 pursuant to a federal program. Do you have any questions about
21 what the government would be required to prove to the jury to
22 establish your guilt on Count 2?

23 A No.

24 Q With respect to the third charge the elements to be proved
25 are, first, there was an agreement between two or more persons

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1 to impair and impede the Internal Revenue Service. I will call
2 that agreement a conspiracy. Second, you became a member of the
3 conspiracy knowing of at least one of its objects and intending
4 to help accomplish that object. Third, one of the members of
5 the conspiracy performed at least one overt act for the purpose
6 of carrying out the conspiracy. Do you have any questions about
7 what the government would have to prove to establish your guilt
8 on that charge?

9 A No.

10 Q Earlier I advised you as to what the maximum penalties for
11 the charges against you would be. Have you discussed the extent
12 of possible punishment with Mr. Bundy?

13 A Yes.

14 Q The court may impose any lawful sentence up to and
15 including the maximum provided by law. The court must consider
16 statutes enacted by Congress and guidelines published by the
17 United States Sentencing Commission when deciding what
18 punishment to impose if you choose to plead guilty. Have you
19 discussed how the statutes and guidelines might apply to you
20 with Mr. Bundy?

21 A Yes.

22 Q Is Mr. Bundy aware of all the facts that would be important
23 in defending you against the government's charges?

24 A Yes.

25 Q Has your lawyer answered any questions you may have asked

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1 him?

2 A Yes, he did.

3 Q Are you satisfied with his services as your lawyer?

4 A Yes.

5 Q Have you had discussions with Mr. Bundy about pleading
6 guilty to the three counts in the information?

7 A Yes.

8 Q Did those discussions eventually lead to a written document
9 called a plea agreement?

10 A Yes.

11 Q Did you read it?

12 A Yes.

13 Q Did you discuss it with Mr. Bundy?

14 A Yes.

15 Q Did you sign it, Mr. Allen?

16 A Yes.

17 Q In this case there is also an addendum to the plea
18 agreement entitled "Factual Basis for Plea" which is
19 incorporated into the plea agreement by reference. Did you read
20 the factual basis addendum?

21 A Yes.

22 Q Did you discuss it with Mr. Bundy?

23 A Yes.

24 Q Did you sign it?

25 A Yes.

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1 Q In this case there is a cooperation agreement which is part
2 of what you and the government have agreed upon. It is entitled
3 "Second Addendum to Plea Agreement, Cooperation Agreement."
4 Have you read that document?

5 A Yes.

6 Q Have you discussed it with your lawyer?

7 A Yes.

8 Q Have you signed it?

9 A Yes.

10 Q The plea agreement together with the two addenda which have
11 been filed in this case appears to include the following basic
12 bargain: You agree to plead guilty to the conspiracy charge in
13 Count 1; you agree to plead guilty to the bribery charge in
14 Count 2; you agree to plead guilty to the conspiracy charge in
15 Count 3; you admit that the facts set out in the document
16 entitled "Factual Basis for Plea" are true; you agree to
17 cooperate with the government to the extent and subject to all
18 of the terms set out in the document entitled "Second Addendum
19 to Plea Agreement, Cooperation Agreement;" you agree not to seek
20 any downward departure from your guideline sentencing range once
21 it has been correctly determined; finally, you agree to waive
22 your right to appeal your sentence and to collaterally attack
23 your sentence and conviction on any grounds except that your
24 plea was not actually voluntary or that you did not actually
25 have effective assistance from your lawyer.

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1 In exchange the government agrees to recommend a downward
2 adjustment in your guideline offense level for acceptance of
3 responsibility. It also agrees not to seek any upward departure
4 from your guideline sentencing range once it is correctly
5 determined. Finally, the government agrees to evaluate your
6 cooperation and good faith and in its sole discretion determine
7 whether or not to make a motion asking the court to reduce your
8 sentence based on the value of that cooperation.

9 Have I correctly described the basic agreement you have
10 with the government?

11 A Yes.

12 MR. BUNDY: Your Honor, I -- may I just be heard
13 briefly?

14 THE COURT: Yes, you may.

15 MR. BUNDY: Two things. First of all, there are other
16 considerations reflected in the plea agreement under other
17 considerations, and, second, with regard to downward departures
18 it's -- it's our understanding that 18 USC 3553(a) will control
19 the court's discretion as under Ninth Circuit precedent to
20 determine the sentence at the time of sentencing.

21 THE COURT: Well, with regard to your second point
22 that is of course true and my reference to departures had only
23 to do with guideline-based departures. At any sentencing these
24 days the government and the defendant may argue anything that
25 they believe is appropriate under 3553(a) unless there's some

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1 agreement between them that they won't.

2 MR. BUNDY: Thank you, Your Honor.

3 THE COURT: Now, with regard to your other point I'm
4 not quite sure I understood. Can you tell me what those other
5 considerations are?

6 MR. BUNDY: I think they're reflected in the plea
7 agreement on Page --

8 THE COURT: Just give me a moment.

9 MR. BOTTINI: Your Honor, I believe it's --

10 MR. BUNDY: Page 15, Your Honor, sub -- paragraph D.

11 THE COURT: 15, D?

12 MR. BUNDY: Yes.

13 Q All right, Mr. Allen, there is another consideration that
14 Mr. Bundy has called to my attention, which is that if -- if the
15 cooperation you provide to the government proves satisfactory to
16 the government, then it will not charge your son Mark Allen or
17 other family members -- that is, other members of your family --
18 with any criminal offense arising out of the government's
19 investigation, and the government will view your cooperation as
20 also being cooperation on the part of Veco. You understand
21 that?

22 A Yes.

23 THE COURT: Are there any other considerations beyond
24 those that I've just gone over? All right, thank you for
25 mentioning that, Mr. Bundy. All right.

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1 Q Mr. Allen, do you understand that by waiving your rights to
2 appeal and to collaterally attack your sentence by filing a
3 habeas corpus petition or a motion under 28 USC 2255 you are
4 giving up important rights?

5 A Yeah, I understand.

6 Q All right. Now, do you understand that by making these
7 waivers you are accepting any sentence the court imposes so long
8 as it's consistent with your plea agreement?

9 A I'm sorry, Your Honor.

10 Q Let me back up.

11 A Say it one more time, I'm sorry.

12 Q Yeah. You understand you waived your right to appeal,
13 correct?

14 A Yes.

15 Q Now the consequence of that is any sentence I impose cannot
16 be appealed, you understand that?

17 A Yes.

18 Q All right. There are other details in your plea agreement
19 in addition to the ones that I summarized. I know that you've
20 discussed the documents that are pertinent with your lawyer, but
21 you might still have some questions or concerns about your plea
22 agreement or the addenda to it. Do you have any questions or
23 concerns at this time?

24 A No.

25 Q Mr. Allen, has anyone promised you anything not contained

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1 in your plea agreement to persuade you to plead guilty?

2 A No.

3 Q Mr. Allen, has anyone made any threat to persuade you to
4 plead guilty?

5 A No.

6 Q You are considering pleading guilty to felony charges. In
7 most jurisdictions felons lose the right to vote, the right to
8 serve on juries, the right to hold public office, and the right
9 to possess firearms. Do you understand these consequences of
10 pleading guilty?

11 A Yes.

12 Q As part of your sentence I must impose special assessments
13 of \$100 per count, which would total \$300. That's separate and
14 apart from any fine that might be imposed. As I mentioned
15 earlier, each of the crimes charged in Counts 1 and 3 carries a
16 maximum penalty of five years in prison and a \$250,000 fine,
17 plus supervised release for up to three years. Count 2 carries
18 even heavier potential penalties, a maximum penalty of 10 years
19 in prison, a fine of \$250,000 and three years of supervised
20 release.

21 Supervised release is a period of formal supervision which
22 would involve a number of significant restrictions on your
23 liberty. It would include regular reporting and compliance with
24 the conditions of supervision. If you violate any of the terms
25 and conditions of supervised release that could result in being

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1 incarcerated for a further period of time. Do you understand
2 that?

3 A Yes.

4 Q The sentence which is imposed might be harsher than the one
5 you're hoping for or even the one the government recommends. If
6 that happened you'd still be bound by a plea of guilty and
7 unable to withdraw that plea so long as the punishment was
8 consistent with the plea agreement. Do you understand that?

9 A Yes.

10 Q You have a right to maintain a plea of not guilty and to
11 proceed to trial. At that trial you'd be entitled to have a
12 lawyer and the government would pay the lawyer if you couldn't
13 afford to. You'd have a right to see and hear all the
14 government's witnesses and to have them cross examined by your
15 lawyer. You could compel other people to attend the trial to
16 testify. You might choose to testify in your own defense, but
17 of course you also have a right under the Fifth Amendment to the
18 Constitution not to incriminate yourself. In the exercise of
19 that right you might choose not to testify. If you did choose
20 not to testify your decision could not be used against you in
21 any way. If you choose to plead guilty you'll lose all the
22 rights you would otherwise enjoy at trial. Do you understand
23 that?

24 A Yes.

25 THE COURT: As required by statute, I need to inquire

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1 at this time whether there's any victim known to the government
2 who -- of these crimes who would like to be heard at this
3 proceeding.

4 MR. BOTTINI: No, there's not, Your Honor.

5 THE COURT: At this time, then, I would like the
6 attorney for the United States to state for the record whether
7 or not the United States is prepared to present evidence
8 sufficient to prove beyond a reasonable doubt all the facts
9 which are recited in the document entitled "Factual Basis for
10 Plea."

11 MR. MARSH: Yes, Your Honor. Had this case gone to
12 trial the government would have proved beyond a reasonable doubt
13 and with competent evidence the factual statements set forth in
14 the factual basis for the plea.

15 Q Mr. Allen, you said earlier you read the document entitled
16 "Factual Basis for Plea" and discussed it with Mr. Bundy. Are
17 the facts set out in that document true?

18 A Yes.

19 THE COURT: Mr. Allen, how do you plead to the charge
20 in Count 1?

21 THE DEFENDANT: Guilty.

22 THE COURT: How do you plead to the charge in Count 2?

23 THE DEFENDANT: Guilty.

24 THE COURT: How do you plead to the charge in Count 3?

25 THE DEFENDANT: Guilty.

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1 THE COURT: It is my finding that Mr. Allen is fully
2 competent and capable of entering informed pleas and that each
3 of his pleas is a voluntary plea supported by an independent
4 basis in fact containing each of the essential elements of each
5 of these three offenses. For these reasons his plea of guilty
6 to Count 1 is accepted, his plea of guilty to Count 2 is
7 accepted and his plea of guilty to Count 3 is accepted. The
8 defendant is adjudged guilty on all three.

9 Mr. Allen, a written presentence report will be prepared by
10 the probation office, you'll be asked to give information for
11 that report. Your attorney may be present when you do that.
12 You'll be able to read the report and discuss it with your
13 lawyer before you're sentenced, and your lawyer and you will
14 each have an opportunity to speak at the sentencing hearing. I
15 reserve approval of the plea agreement until after I consider
16 the presentence report. Although I have reserved approval of
17 the plea agreement, you may not withdraw your guilty pleas, Mr.
18 Allen, unless I later reject the plea agreement or you show a
19 fair and just reason for doing so under Rule 11(b)(2) of the
20 Federal Rules of Criminal Procedure.

21 At this time Mr. Allen is referred to the probation service
22 for a presentence investigation and report. A sentencing
23 hearing will be held in this court on a date to be set in a
24 later order. The defendant is cooperating with the United
25 States in its on-going investigation of public corruption, so

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1 the date for the sentencing hearing will be set in an order
2 further -- further along in the year. I have directed the
3 parties to advise me of an appropriate date in the notice which
4 they are to file no later than October 1, 2007.

5 I'll take this opportunity to remind the lawyers that under
6 Rule 32 of the Federal Rules of Criminal Procedure if you have
7 any objections to factual statements in the presentence report
8 you must raise them with the author of the report. If you don't
9 do that I won't consider them at the time of sentencing unless
10 you can show good cause for the failure to timely raise the
11 objection.

12 At this time we need to consider bail conditions. I need
13 to inquire what conditions the United States may recommend.

14 MR. MARSH: Your Honor, the government would request a
15 \$10,000 unsecured bond as its release condition.

16 THE COURT: A \$10,000 unsecured bond?

17 MR. MARSH: Yes, Your Honor.

18 THE COURT: It would be my intention to include some
19 additional conditions, such as regular reporting to the
20 probation service and the surrender of passports and the like.

21 MR. MARSH: Your Honor, with respect to the surrender
22 of passports, the government does not object to the defendant
23 being able to retain his passport and travel freely.

24 THE COURT: All right, what about the regular
25 reporting to the probation officer?

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1 MR. MARSH: The government agrees with the court that
2 that should be required.

3 THE COURT: And do you seek any travel restrictions?

4 MR. MARSH: No, Your Honor.

5 THE COURT: Are you asking that the court order him to
6 avoid contact with any other persons?

7 MR. MARSH: Your Honor, in this case the government
8 does not believe that's necessary.

9 THE COURT: All right. So the \$10,000 unsecured bond
10 and weekly reporting to the pretrial services by telephone is
11 all that the government seeks?

12 MR. MARSH: Yes, Your Honor, that's correct.

13 THE COURT: Mr. Bundy, do you have any objections to
14 those conditions?

15 MR. BUNDY: No, Your Honor.

16 THE COURT: Do we have an order? (Pause) Mr. Bundy,
17 I have two documents for you to review with your client. The
18 first is the order setting conditions of release, the second is
19 the appearance bond itself.

20 MR. BUNDY: Your Honor, if we could approach the
21 clerk?

22 THE COURT: Yes, sir.

23 MR. BUNDY: Sorry, I forgot a page.

24 THE COURT: Yeah, the bond is also not dated, Mr.
25 Bundy. Thank you. Mr. Allen, you've signed an order setting

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1 conditions of release. The conditions are that you promise to
2 appear at all proceedings as required and to surrender to
3 service of any sentence imposed, that you execute a \$10,000
4 unsecured bond, and that you report to pretrial services once a
5 week. Do you understand those conditions?

6 THE DEFENDANT: Yes.

7 THE COURT: Now, if you violate those conditions that
8 would result in your arrest, do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: All right, I'm going to sign the document
11 and have it filed in the records of the court. And Mr. Allen
12 has also signed a appearance bond in the amount of \$10,000, so
13 we'll have that filed as well. Is there anything further that
14 either of the parties wishes to bring to the court's attention
15 at this time?

16 MR. MARSH: Not from the United States, Your Honor.

17 THE COURT: Thank you, sir. Mr. Bundy?

18 MR. BUNDY: No, Your Honor.

19 THE COURT: Very well, then we will adjourn pending
20 the next proceeding.

21 (Proceedings adjourned, 9:50:24 a.m.)
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C E R T I F I C A T I O N

I, Teresa E. Mielke, court approved transcriber, certify that the foregoing is a correct transcript from the official digital sound recording of the proceedings in the above-entitled matter.

/s/ Teresa E. Mielke

Teresa E. Mielke

May 15, 2009

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